

# **Chesapeake Bay Preservation Area**

## **Town of Montross Zoning Ordinance**

**Adopted September 2009**

## Ordinance

### An amendment to

#### Chapter 66 ZONING, Article IV, District Regulations, Sec. 66-113 Chesapeake Bay Preservation Overlay District

Amended to read as follows:

#### Sec. 66-113 Chesapeake Bay Preservation Area Overlay District

- (a) *Authority, purpose and intent:* Pursuant to the authority set forth in the Code of Virginia, 15.2-2283, the purpose of the Chesapeake Bay Preservation Area Overlay district is to implement the requirements of the Code of Virginia, 10.1-2100 et seq. (The Chesapeake Bay Preservation Act) and to accomplish the purposes set forth therein. The intent of the Chesapeake Bay Preservation Area overlay district is to:
- (1) Protect existing high quality State waters;
  - (2) Restore all other State waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them;
  - (3) Safeguard the clean waters of the State from pollution;
  - (4) Prevent any increase in pollution;
  - (5) Reduce existing pollution; and
  - (6) Promote water resource conservation and in order to provide for the health, safety and welfare of the present and future citizens of the Town.
- (b) *Findings of fact.* The Chesapeake Bay, together with its tributaries, is one of the most important and productive estuarine systems in the world, providing economic and social benefits to the citizens of the Town and State. The health of the Bay is vital to maintaining the economy of the Town and welfare of its citizens. The Chesapeake Bay waters have been degraded significantly by many sources of pollution, including non-point source pollution from land uses and development. Existing high quality waters are worthy of protection from degradation to guard against further pollution. Certain lands that are proximate to shorelines have intrinsic water quality value due to the ecological and biological processes they perform. Other lands have severe development constraints from flooding, erosion, and soil limitation. With proper management, they offer

significant ecological benefits by providing water quality maintenance and pollution control, as well as flood and shoreline erosion control. These lands together, designated by the Town Council as Chesapeake Bay Preservation Areas, need to be protected from destruction and damage in order to protect the quality of water in the Bay and consequently the quality of life in the Town and the State.

- (c) *Application of district.* The Chesapeake Bay Preservation Area overlay district shall be in addition to and shall overlay all other zoning districts established by this chapter, which other districts shall be known as underlying districts. Every parcel of land lying with the Chesapeake Bay Preservation Area overlay district shall also lie within one or more of the underlying districts provided for in this chapter. Unless otherwise specifically stated in the Chesapeake Bay Preservation Area overlay district regulations, the requirements and review and approval processes set forth in this chapter shall be applicable to all development, redevelopment and use of land governed by this section.
- (d) *District regulations and boundaries.* The regulations and the review and approval processes applicable within the Chesapeake Bay Preservation Area overlay district, as well as the boundaries of the district within the Town, shall be as set forth in sections 3-1.4 thru 3-1.15 of the ordinance know as the "Chesapeake Bay Preservation Area Overlay District" of Westmoreland County as adopted by the County Board of Supervisors on April 12, 2006. Except as provided in subsections (e), (f), and (g) of this section, sections 3-1.4 through 3-1.15 of such ordinance are hereby incorporated by reference and made a part of this chapter as though fully set forth in this section. For purposes of implementing the requirements of the Chesapeake Bay Preservation Area overlay district and to the extent applicable in the administration thereof, the Erosion and Sediment Control ordinance of the County is hereby incorporated and made a part of this chapter as though fully set forth in the section.
- (e) *Administration and interpretation.* The provisions of the Chesapeake Bay Preservation Area overlay district regulations shall be administered and enforced by the zoning administrator of the County as set forth in the ordinance referred to in subsection (d) of this section. For purposes of application of the Chesapeake Bay Preservation Area overlay district regulations with the boundaries of the Town, certain terms and references uses in such ordinance shall have the following meaning:
  - (1) Underlying district means an underlying zoning district established by this chapter.
  - (2) Planning Commission means the Planning Commission of the Town of Montross.
  - (3) Board of Zoning appeals means the Board of Zoning Appeals of the Town of Montross.

- (4) References to County zoning ordinance. References to sections 8-1 through 8-4, 10-3.4, 10-3.12 and 3-1.4 of the zoning ordinance of the County shall mean the corresponding sections of Articles VI, VII, and IX respectively, of this chapter, to the extent they are appropriate to the context.
- (f) *Appeals and variances.* None of the provisions of the Chesapeake Bay Preservation Area overlay district regulations shall be deemed to abrogate the powers of the Board of Zoning Appeals with respect to appeals from any decision of an administrative authority or variances from the terms of this chapter as authorized by the provisions of the Code of Virginia, 15.2-2309, as amended, and in accordance with the provisions of Article IX of this chapter. Prior to filing an appeal with or making an application to the Board of Zoning appeals, the appellant or applicant shall first have exhausted the means of administrative relief through the Planning Commission as set forth in the Chesapeake Bay Preservation Area overlay district regulations. In action on any such appeal or variance application, the Board of Zoning appeals shall consider the water quality impact assessment and findings and rationale of the Planning Commission in determining harmony with the intended spirit and purpose of this chapter.
- (g) *Effective date; nonconforming uses.* The effect date of the Chesapeake Bay Preservation Area overlay district as is applies within the boundaries of the Town shall be the effective date of the ordinance from which this chapter is derived. The lawful use of any building or structure existing on such date or which exists at the time of any amendment to the regulations of such district, and which is not in conformity with the provisions of such district, may nonetheless be continued in accordance with the provisions of section 3-1.13 of the Chesapeake Bay Preservation Area overlay district regulations and the applicable provisions of Article VI of this chapter pertaining to nonconforming uses and structures. (Ord. of 11-23-93, Sec 19.1-29)

**State law references-**Erosion and Sediment Control Law, Code of Virginia, 10.1-560 et seq.; authority of town to exercise police and zoning powers to protect the quality of state water, Code of Virginia, 10.1-2108.

Adopted by the town of Montross Town Council

\_\_\_\_\_2009

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Brenda T. Reamy, Town Clerk

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R. David O'Dell, Jr. Mayor